

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

DONALD LEE BRYANT,

§

VS.

§

CIVIL ACTION NO. 4:09-CV-111-Y

§

RICK THALER,

§

Director, T.D.C.J.

§

Correctional Institutions Div., §

ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS AND CONCLUSIONS

In this action brought by petitioner Donald Lee Bryant under 28 U.S.C. § 2254, the Court has made an independent review of the following matters in the above-styled and numbered cause:

1. The pleadings and record;
2. The proposed findings, conclusions, and recommendation of the United States magistrate judge filed on September 15, 2009; and
3. The petitioner's written objections to the proposed findings, conclusions, and recommendation of the United States magistrate judge filed on October 28, 2009.

The Court, after **de novo** review, concludes that the Petitioner's objections must be overruled,<sup>1</sup> and that the petition for writ of habeas corpus should be denied, for the reasons stated in the magistrate judge's findings and conclusions.

Therefore, the findings, conclusions and recommendation of the magistrate judge are ADOPTED.

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<sup>1</sup>Bryant does not list any specific objections to any of the magistrate judge's findings and conclusions, or to the recommendation that several of his claims were unexhausted and procedurally defaulted. Rather, he asks the Court to stay the proceedings in order for him to obtain a copy of his attorney's file. Although Bryant referenced, in his memorandum in support of the § 2254 petition in this case, a "motion to order attorney to release client's file" that he filed in state court, he has not actually filed a motion or sought relief on this basis in this Court. Furthermore, Bryant did not raise this issue during the pendency of his applications for writ of habeas corpus in state court. Also, other than now claiming that access to the file would help show that counsel was ineffective because counsel was being treated for Alzheimer's disease, Bryant does not allege how lack of access to the attorney's file kept him from asserting, in the state-court habeas proceedings, the claims that are now considered procedurally defaulted. Thus, Bryant's request for a stay is DENIED.

Petitioner Donald Lee Bryant's petition for writ of habeas corpus is DENIED.

SIGNED November 2, 2009.

  
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TERRY R. MEANS  
UNITED STATES DISTRICT JUDGE